

It would require that simple but important benchmarks be met before the President's new rules could take effect. No. 1, the Secretary of Labor would have to certify that the regulations would not generate a loss of employment.

No. 2, the Director of the Congressional Budget Office would have to certify that the regulations would not result in any loss in American gross domestic product.

No. 3, the Administrator of the Energy Information Administration would have to certify that the regulations would not increase electricity rates.

No. 4, the Chair of the Federal Energy Regulatory Commission and the president of the North American Electric Reliability Corporation would have to certify that electricity delivery would remain reliable. So the Coal Country Protection Act is just common sense.

Moments ago the majority leader blocked consideration of this measure. Unless we take this up, debate it, and pass it, the President's rules will cause job loss, utility rate hikes, and potentially brownouts. The President's regulations will actually increase energy prices and create job loss.

Opponents of this bill will be supporting job loss in Kentucky, our economy being hurt, and seniors' energy bills spiking for almost zero meaningful global carbon reduction.

So the majority leader and the Democrats in this body need to listen. And even if they won't, Kentuckians should know I will keep fighting for them.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

THE ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 11 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided between the two leaders or their designees, with the Republicans controlling the first 30 minutes and the majority controlling the next 30 minutes.

The Senator from Nebraska.

WATERS OF THE UNITED STATES

Mr. JOHANNIS. Mr. President, I rise today to discuss EPA's joint proposed rule redefining waters of the United States.

Claims to the contrary notwithstanding, EPA has once again thrown down the gauntlet with this massive expansion of Federal jurisdiction. This new rule in its essence declares almost every body of water to be within Federal regulatory jurisdiction. By con-

juring up even the most remote connection to a navigable body of water, EPA is now claiming they can regulate ponds, ditches, and even low-lying areas that are actually dry during most of the year. EPA seems to think it has jurisdiction if there is just a chance that a speck of dirt can travel through a stream, a pond, or even a field to traditional navigable water, and that is clearly not what Congress intended. But the EPA, the Army Corps of Engineers, and even the USDA are touting that they listened to agriculture and that farmers' and ranchers' concerns were, in fact, reflected in this proposal. But if this 370-page rule actually provides certainty and maintains exemptions for farmers, as EPA claims, then why are most farm groups so opposed to it?

We have seen EPA become better and better at messaging to farmers, but unfortunately the actual language of the regulations—their very aggressive approach—really hasn't changed one bit. While EPA has shown a willingness to meet and to listen, the reality is that the words on paper really are what matter.

When Administrator McCarthy came before an appropriations subcommittee a few weeks ago, I pushed her on this issue. Not surprisingly, she told me they are really trying to get this right and listen to agriculture's concerns across the country. But as it stands right now, folks in farm country are justifiably alarmed.

EPA will point to a few exclusions in the rule, but if you look closely, these exemptions are so very narrowly crafted that very few waters actually would escape EPA's regulatory grasp and overreach. For example, under the proposed rule, waters that are perennial, intermittent, or ephemeral can be subject to EPA regulation. That is right—EPA is trying to regulate bodies of water that only have water in them when it is raining. That is just one of the many examples in this rule where it is clear that EPA is trying to push the envelope—and push it as far as they can.

In its so-called fact sheet on the benefits of the rule for agriculture, EPA touts that exemptions are, in fact, preserved for agriculture. Not only that, but according to the fact sheet, EPA will now exempt 56 conservation practices from permitting requirements. It says this will provide certainty and predictability. That all sounds good as messaging until you actually examine the claims. These exemptions only apply to dredge and fill permitting. All other Clean Water Act permitting requirements do not have exemptions for agriculture. So whether a permit is required for other provisions of the act is simply a function of whether the related waters are Federal waters. Thus, because EPA vastly expanded the definition of Federal waters, farmers are going to get a rude awakening when they are told they need a 402 permit before applying pesticides or when they

realize this rule may require them to have a spill prevention, control, and countermeasure plan in place or when they realize their farm pond is not exempt simply because they allow livestock to drink from it. Imagine the dismay of farmers when they realize that the much-touted exemptions are essentially meaningless and that they are subject to fines of tens of thousands of dollars per day.

Nonetheless, the Obama administration continues to tout this list of 56 conservation practices that they are proposing to exempt as if farmers should fall silent in gratitude. It is the classic smoke and mirror approach that has led to the tremendous mistrust of this administration. They say one thing while putting policies in place that dictate something entirely different.

Consider this: Even these narrow conservation exemptions are wrapped in fine print and redtape. EPA also says that in order to be exempt, a conservation practice must specifically comply with USDA standards. Again, it sounds reasonable, except that these standards, which were developed for voluntary conservation programs, were never intended to be the only means of avoiding a regulatory hammer. These are gold-plated standards. They are also very prescriptive. That may be fine for voluntary programs that come with compensation for compliance. It is not fine if farmers must follow them or face huge fines. There is nothing voluntary about that.

Can these farmers be sued because they didn't follow supposedly voluntary USDA standards? Can EPA take action against these farm families? Who will enforce compliance with those conservation practices? Will it be the USDA or will it be the EPA? Farmers generally trust USDA's voluntary approach to conservation efforts, but what happens to that trust if USDA is suddenly thrust into the business of enforcing EPA regulations on the farm? Conversely, is EPA going to hold any sway over USDA's voluntary conservation standards? Since they are planning to use those standards to regulate farms, this is a great concern.

Let me mention one additional cause for concern. These supposedly exempt practices are not even in the proposed rule; they are in a separate document from the rule, and that document can change on the whim of the EPA without warning and with no opportunity whatsoever for public comment. So ranchers doing a practice consistent with the list may get the rug pulled out from under them.

EPA claims this rule will provide certainty and predictability, and in one respect they are right. As a constituent of mine from Ogallala rightly put it, "The only clarity the proposed rule provides is to put me on notice that everything is a water of the U.S. and that I need a permit to do anything."

So it appears that in an effort to provide clarity, EPA has very much done

the opposite. And I have just scratched the surface here today. But EPA still has an opportunity to fix this mess. While the tendency of this administration has been to overregulate from day one, there is still an opportunity to pull back the rule and admit they went too far.

I had high hopes when Administrator McCarthy took the reins and expressed a desire to build trust with the ag community. In fact, she called it a priority. This rule, though, delivers the opposite message. If Administrator McCarthy is serious about having a relationship with the people I represent—ag producers—it would send such a powerful signal to say: Hold on. Let's withdraw the rule. Let's not follow this misguided direction. Call a timeout, and people would see that and say: I am going to listen. People would receive that so positively. This would certainly get the attention of the ag community and really begin to build bridges instead of outlining rhetorical wishes.

The window of opportunity is still open, and I hope the Administrator seizes it by withdrawing the rule.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

HEALTH CARE

Mr. BLUNT. Mr. President, I wish to talk a little bit about health care this morning.

The majority leader has suggested in past weeks that all of these contacts and concerns I get from Missourians are just made up—although he didn't target Missourians and say only Missourians were making up these stories; he just said everybody was making up these stories. But that is clearly not true.

The law regarding health care—the law that is applied every day with great consistency—continues to be the law of unintended consequences, the law that so often is impacted by what we think we are doing in the Congress, only to find that the consequences of those actions go well beyond the discussion the Congress was having. Certainly if we had that debate again today, the debate we had in 2009 and early 2010, the Congress would be better prepared for that debate, the country would be better prepared for that debate, and people would understand what is at stake. What I see every day are things that people didn't anticipate would happen.

Here is a letter we got from Jack in Kansas City, MO. He said:

I'm a retired hospital CEO and glad to be retired because of Obamacare.

He points out in an absolutely correct way that in most communities in Missouri, particularly our small and midsized communities, the hospital is a real source of pride and place of healing, a major employer.

Of course, the potential end result of what is happening now with the changes we made and how hospitals are

treated, particularly hospitals in rural areas, hospitals in underserved inner-city areas, is that the programs that were in place are basically going away. And why did they go away? Because the President assumed and the Members of Congress, I am sure, who voted for this piece of legislation assumed, that everybody would be covered, that everybody would have insurance, so we didn't need to have special programs that dealt with people who didn't have insurance and hospitals that dealt with people who didn't have insurance, and we didn't need special programs for underserved areas. Clearly, that is not the case.

If we look back at the debate, many people were saying: This will not work out the way the well-intended proponents of this law think it will work out, and we are going to continue to have people without insurance.

In fact, the Congressional Budget Office reiterated again just recently that at the end of 10 years, how many people won't have insurance? Thirty million. Thirty million people didn't have insurance when we started, and to disrupt the entire health care tableau of the country to add possibly 10 million, I think we are going to have people who lose insurance at work who previously had insurance through their work. I think that will be one of the major unintended consequences as we approach the end of this year and go into next year.

I am talking to too many employers in Missouri who are saying there is a place for people to go now. They can go to the exchange. We struggled with this for a long time. Even though we are not covered by the law, even though we don't have 50 employees, we are no longer going to provide the insurance at work—that many of these employers have provided for decades and others have provided over all the time they have been in business, even if it is less than decades.

Norman from Warrensburg, MO, is concerned about what would happen with Medicare and Medicare Advantage. He says: I was struck with Guillain-Barre in 2005 which has left me disabled as well as other resulting health issues. We expend more than \$3,000 out of pocket annually just for my prescriptions alone and that was under a Medicare Advantage plan. This plus the Medicare premiums and the physician care takes almost all of our Social Security benefits. We live in a small community.

He describes Warrensburg as a small community of around 18,000, and it would probably be one of those communities to lose the Medicare Advantage type of insurance, which is the gap that he thinks allows his family to have the health care they have and would like to continue to have.

Paula from O'Fallon, MO, says she believes a lot of people's spouses are going to leave their jobs because they are going to look at who has the better insurance and try to benefit from that

better insurance. According to her, her husband's company is paying a large fine because their insurance is better than ObamaCare. I imagine more realistically what that letter might have said is that their insurance isn't exactly what the Department of Health and Human Services believes is the right kind of insurance, when the government makes these decisions instead of the people or the people closest to them, their employers.

One of the benefits of the employer-provided system was that people didn't have to worry about this. In fact, almost everybody looked at their insurance and they talked with their employer and they decided they would get more information when they needed it, and when they needed it usually the information they got was pretty good information for them to have.

Now we have people trying to figure out, if they have choices, a complexity of choices and alternatives that they never had to deal with before. Frankly, they are not going to like that, and I think one of the other unintended consequences of this law is that people are going to begin to say: I know a government-run program wouldn't be as good as the health care I used to have, but I just don't want to be responsible for it anymore. What we probably are doing is building a groundswell of people who no longer want to be forced into the decisions they never had to make, because 85 percent of everybody who had insurance had insurance at work, and 90 percent of them thought the insurance they had at work met their needs. I think we would be lucky if very far into the Affordable Care Act, 90 percent of the people who have insurance think the insurance they have moving forward meets their needs.

Angelyn from Dexter, MO, said her aunt and uncle are searching for a new doctor after their doctor moved out of State. They are having trouble finding a physician in the Dexter area that will take new Medicare patients—another unintended consequence.

The people who voted for this bill cut Medicare itself. I wasn't for it, but it is the law. One of the reasons I said I wasn't for it is we are cutting a program we already knew is challenged—Medicare—by \$500 billion to form a new program. There is no city council, there is no county government, there is nowhere else in America where people would go to a meeting and say, OK, we have a program that is in real trouble, so what we are going to do is cut that program to start a new program—and particularly a program such as Medicare that people have been led to believe they can rely on. When we cut Medicare by \$500 billion over 10 years something happens.

What Angelyn's aunt and uncle are seeing is one of the things that happens is people try to find a doctor who will take Medicare only and find doctor after doctor who says: We are going to continue to serve the Medicare patients we have as long as they are